104

S. Hrg. 104–820

VIETNAMESE COMMANDOS

Y 4. IN 8/19: S. HRG. 104-820

Vietnamese Commandos, S. Hrg. 104-8...

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

VIETNAMESE COMMANDOS

WEDNESDAY, JUNE 19, 1996

Printed for the use of the Select Committee on Intelligence

OCT 25 1997

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VIETNAMESE COMMANDOS

WEDNESDAY, JUNE 19, 1996

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 9:08 a.m., in Room SD–106, Dirksen Senate Office Building, the Honorable Arlen Specter, Chairman of the Committee, presiding.

Present: Senators Specter, Kerrey of Nebraska, and Kerry of Massachusetts, Robb.

Also Present: Charles Battaglia, Staff Director; Chris Straub, Minority Staff Director; Suzanne Spaulding, Chief Counsel; and Kathleen McGhee, Chief Clerk.

Chairman SPECTER. This morning the Senate Select Committee on Intelligence will proceed to a hearing on an issue involving the United States' treatment of Vietnamese who were called upon to assist our country in the Vietnam War, in a tale which, on its face, and from all appearances is a genuinely incredible story of callous, inhumane, and really, barbaric treatment by the United States, if the facts which appear to be true are verified during the course of these hearings.

The underlying situation involved a process which began back in 1958, when South Vietnamese President Ngo Dinh Diem asked the United States for assistance in conducting covert operations against Communist controlled areas in the north. In the course of time, approximately 500 commandos infiltrated, mostly in teams, into North Vietnam, starting in 1961 and lasting for the better part of a decade. Many were killed shortly after their entry into the process. Most were captured, according to reports which we have by North Vietnam, tried for treason, and then imprisoned.

The reports suggest—really show that the United States wrote them off systematically, crossing their names off of the ledgers, making a nominal payment of $300 for death claims to their families. Took no action during the Paris peace talks to secure their freedom, an absolutely incredible situation, if true. And then for decades has covered up these atrocities with classified documents, only recently declassified.

The saga continues to this moment, when in the Court of Claims, the United States government is denying viability on a contention that these are secret agreements and therefore are not justifiable in court. A fancy word which says you can't get relief in a court of law.

On their face they appear to me to be enforceable obligations plus. Any concept of secrecy to condone this kind of conduct would

be against all tenets of public policy as I understand it in the law. And the secrecy provisions would not be enforceable.

Only yesterday, after the scheduling of this hearing, have we had any official word from the CIA. In a letter received dated June 18, from Acting Director George Tenet, saying that our position is that their claims are not justifiable and are in fact in the wrong forum. There is a concession, quote "whether or not the mission of these commandos was a mistake is not relevant to our moral obligations to them now."

It's a little hard to understand how in one paragraph the Acting Director of the CIA can talk about moral obligations and then talk about procedures to deny payment, leaving the matter for the Congress. And I think the Congress can handle the issue, but it is really shocking to me, that the Department of Justice, the Department of Defense and the CIA would take a position in court on a motion to dismiss that these are not valid claims.

It really hardly ought to be up to the oversight Committees of Congress and the Congress itself to cure these palpable, egregious injustices. And this Committee intends to get to the bottom of it. And we are proceeding with this hearing today and whatever other follow-up hearings may be necessary to cleanse the record and purge these injustices.

I now turn to our distinguished Vice Chairman, Senator Robert Kerrey.

Vice Chairman KERREY. Thank you very much, Mr. Chairman. I must say at the outset, I don't anticipate this hearing with great pleasure. The Vietnam War was one of the most painful episodes in our nation's history. As we are going to be reminded today, it was even more painful for the Vietnamese than it was for us. Even in fighting for the freedom of Vietnamese, some Americans did things that increased their suffering. And the betrayal of these commandos appears to be such a case.

Time performs a healing function by dimming the memory of pain. And when we choose to research events of the war that occurred 30 and more years ago we are reopening scar tissue and that hurts.

If in doing so we can help right a wrong that has been done to people who took great risk for the freedom of their country, then let us do it. I am cosponsor of Senator John Kerry's bill to pay the claim of those Vietnamese operatives. In my view, the United States simply owes them the money. I did not require a hearing, however, for me to reach that conclusion. But I expect what I hear today will make me even more firm in my view that these men were badly misused. I also recognize the difficulty of assembling witnesses who can talk with authority about the events of 30 years ago.

Mr. Chairman, let me also publicly note that while this operation reportedly began as a CIA operation, news articles say it was handed over to the Defense Department in 1964. If we allocate blame this morning for the abuse these men suffered, I hope we will bear in mind when the abuses occurred.

I look forward to the witnesses.

Chairman SPECTER. Thank you very much Senator Kerrey.

We now welcome our distinguished colleague, Senator John Kerry of Massachusetts, who brings a special credibility to this issue. Pardon me, Senator Robb would you like to make an opening comment?

Senator ROBB. Mr. Chairman, I have no opening comment. I'd share the sentiments of the Chairman and the Vice Chairman of the Committee that this revelation is truly appalling and I am pleased to be a cosponsor of the amendment that the distinguished Senator from Massachusetts is offering and will be testifying to this morning.

Chairman SPECTER. One of the background factors is that there is some suggestion that this situation is not isolated. And one really wonders from time to time what is present in these classified documents. The reason for classification secrecy has long since expired. And what other horrendous injustices are buried under a top secret classification, when they ought to be brought to light and restitution made if not more.

We now turn to our distinguished colleague from Massachusetts, Senator John Kerry, who brings special credibility to this issue, not only from his service in the Senate, but from his contribution in the Vietnam War.

Senator Kerry.

STATEMENT OF THE HONORABLE JOHN KERRY, A U.S. SENATOR FROM THE COMMONWEALTH OF MASSACHUSETTS

Senator KERRY of Massachusetts. Mr. Chairman, thank you very much. Thank you for permitting me to testify here today. And I'm pleased to be able to share in this testimony this morning with my friends Bob Kerrey and Chuck Robb, both of whom served with extraordinary distinction in Vietnam and understand exactly the meaning of this story that is unfolding.

It is, as Bob Kerrey just said, another painful legacy of the Vietnam War, in a sense our own bureaucratic Phoenix program. A story of hundreds of Vietnamese commandos who served us extraordinarily faithfully during the war. And this afternoon, as has been mentioned, I will be offering an amendment together with Senator McCain, Senator Bob Kerrey, Senator Chuck Robb, Senator Bob Smith, Larry Pressler, Tom Daschle, and Pat Leahy, and others to reimburse the commandos sitting behind me and others for their years of incarceration in North Vietnamese prisons and for their years of service in our mutual cause in the war.

Thirty years ago, as Bob Kerrey alluded to, Vietnam presented us with contradictions and questions to last a lifetime. And now once again, Vietnam proves to be the war that refuses to go away. An invisible, powerful author keeps serving up another chapter just when we thought that the full story had been told. In many ways, this chapter is both new and old at the same time. Old, because we knew that Neil Sheehan was right when he described a "Bright Shining Lie" and new because the stark, bold, cold calculation of government influence and betrayal toward patriots stuns us in this cynical age. Old because we have learned through centuries that war is cruel and new because as Americans we never expect that we would attack or diminish our own sense of honor. The truth is we sent heroic Vietnamese commandos under our banner, on our

missions, on our payroll, into North Vietnam to do our bidding, risking their lives and even their families' lives. And then we left them there, denied their existence and walked away leaving them to be imprisoned, tortured, or killed.

So we are here today to right a wrong. To pay for an injustice. To seek fairness and to put to rest yet another disturbing legacy of the Vietnam War. And I think as my colleagues have said, that is not too much to ask.

These are the facts. In the early days of the war, the United States and the South Vietnamese governments initiated a joint covert intelligence gathering operation against North Vietnam. South Vietnamese government officials recruited commandos from among the Vietnamese civilians and the ARVN, the Army of the Republic of Vietnam, and the United States through the CIA, and later the Defense Department, provided the training, the funding, including all salaries, allowances, bonuses, and death benefits. Together the United States and South Vietnamese officials determined where and when the commandos, who were organized into teams, would be inserted into North Vietnam. Many were dropped by parachute, but some were sent in by sea or over land. Some also conducted counterintelligence activities against North Vietnam from Laos.

ARIES, the first team, was inserted in early 1961. By the early 1970s, fifty-two teams comprising approximately 500 commandos had been inserted behind enemy lines. Initially the mission was confined to intelligence gathering, but soon it was expanded to include sabotage and psychological warfare. From the beginning it was clear, at least to some, those responsible, that this operation was a failure. Recently declassified Defense Department documents show that the teams were killed or captured shortly after landing. And that the CIA and the Defense Department, which took over the operation in early 1964, knew it at the time.

It is now apparent that the missions were compromised. And that Hanoi ran a counterespionage operation against us and our South Vietnamese allies by forcing the commandos to radio back to us exactly what Hanoi wanted us to know and hear. The preponderance of evidence that has come to light in the last year leaves little doubt that the United States continued to insert South Vietnamese commandos behind enemy lines knowing full well what the outcome of those missions would be. And what the chances of success were. The Defense Department then compounded that tragedy by simply writing off the lost commandos. Drawing a line through their names as dead, apparently in order to avoid paying monthly salaries.

For example, a six-man team called ATTILA was dropped into Nai Am province on April 25, 1964. The team was immediately captured. Two months later on July 16 Radio Hanoi announced the names and addresses of the six team members, the dates they were captured, and the start of their trials. Declassified Defense Department documents indicated that we knew the team had been captured. Nevertheless by the beginning of 1965, the Defense Department had declared the entire team dead, and had paid very small benefits to their next of kin.

This process of declaring the commandos dead on paper was reaffirmed in 1969 by the operations officer for something called

OPLAN 34A in the Pentagon. And that officer said at the time, and I quote him, "We reduce the number of dead gradually by declaring so many of them dead each month until we had written them all off and removed them from the monthly payrolls."

After sending these brave men, on what by anyone's judgment were next to suicide missions, and after cutting off their pay, we then committed the most egregious error of all—we made no effort to obtain their release along with American POWs during the peace negotiations in Paris. As a result, many of these brave men, who fought along side us for the same cause, spent years in prison—more than 20 years in some cases.

After their release from prison in the late 1970's or 80's, a number of the commandos made their way to the United States and are now simply seeking acknowledgment of their service and payment from the United States government for the period of their internment.

In a pending law suit, which has been referred to, they've asked for $2,000 a year—not a very significant sum—for an average of 20 years spent in captivity. The United States owes these men a debt that can frankly never be repaid, but we can at least give them the recognition that they deserve and the small amount of compensation that they were promised three decades ago.

Mr. Chairman, I want to emphasize that we're not here today, I am certainly not here today, to point a finger at anyone individually. I am certainly not here looking for scapegoats or scalps. I don't think any purpose is served by that. We know the difficulties of that time. We know what it did to the country. We know the road and journey we've traveled since then. And I think all of us are anxious to continue the process of healing. And that is more important in many regards, and in many ways that is exactly what this effort is about.

But we should understand what happened so that such a choice is never made again. We're here simply to do the right thing. And it is important not to compound the judgment that was exercised during the 1960's by avoiding a better judgment and our responsibility today. We can't bring anybody back to life. We can't make up for the extraordinary suffering or for the torture or for the years of having turned away from these fighters. But we can honor their service, and we can make it clear to those who wish to join us in the struggle for freedom and democracy in the future, that we are a country big enough to admit mistakes, and strong enough to understand our clear sense of responsibility and duty and to move to rectify mistakes when they are made. And that while sometimes individuals may make a mistake, as a country, we are a people with extraordinary generosity, a great country, that will always honor and thank those who fight with us in common cause.

I also want to emphasize, as I'm confident Bob Kerrey and Chuck Robb would, that even as we sit here today talking about a debt owed to those who joined us as allies in a fight, we, I know, particularly as veterans, want to remember that there are still too many of our own brothers here in this country who are dealing with the terrible aftermath of that war even in 1996. And that efforts to repay these commandos should not diminish our obligation to our fellow veterans in this country to maintain the standard of

care and attention which has been promised to them and which, I must say candidly, is threatened today by some of the choices being made here in Washington.

I thank you, Mr. Chairman, for listening.

Chairman SPECTER. Thank you very much, Senator Kerry.

My own service was during the Korean War, so I did not have the call in Vietnam as you did and Senator Robert Kerrey and Senator Chuck Robb. And as I hear your testimony and review the allegations, this conduct seems to me to be just totally indefensible and I have grave doubts that money is enough. And when you say we can't bring people back to life, that's certainly true, but I have a strong sense that it is necessary to do more than pay compensatory damages if we're to have an example that this conduct will not be tolerated in the future.

And I know how difficult it is to assess individual blame, but I have a sense that that inquiry ought to be made. What we do it, I'm not exactly sure. But this conduct as you've described it, and as I have seen it, is criminal. It is criminal conduct. Where there's a duty owed to these Vietnamese commandos who were going in to do our mission, when we leave them in captivity to be tortured and to be mutilated and to do nothing about it, that's homicide, it's malice, it's premeditated. And the payment from the government hardly seems to me to be sufficient.

Well, that's what we have to wrestle with. And it's not exactly yesterday. It's today. The CIA cannot be present here today, because they are fearful of testifying in a Senate proceeding because they may prejudice a case in the Court of Claims. I, frankly, do not see how their case can be more prejudiced than it is today. And I commend you for the legislation which you have introduced. And I intend to introduce legislation to overturn the 1875 Supreme Court decision which says that lips are sealed and you can't go behind a secret agreement. That's a horrendous decision which ought not to receive any weight today from anybody, including the Department of Justice which is fighting that case.

But these are not mistakes that were made yesterday, a decade ago, or two decades ago, or three decades ago; they are going on today. Our government is not facing up to the facts. Not facing up to basic humanity.

Senator KERRY of Massachusetts. Mr. Chairman, if I could just say that I agree with most of what you have said with respect to your characterization of it, but I do think that it's important to put on the record that we've worked closely with the Administration; that immediately when it learned about this, indicated a desire to try to rectify it and try to do what is correct. And Tony Lake, on behalf of the President and the White House has helped to negotiate out a means of doing that in a way that doesn't extend beyond this case to cases that we're not even aware of or situations we're not aware of. We've tried to include the full universe of people.

The law suit embraces, I believe, about 281. We've encompassed the full universe of 400 to 500, which is why there is a discrepancy between the amount of money that we are asking for in our legislation versus what the lawsuit is asking for. So in effect, I think while an argument can be made on the value here, what we're doing is respecting what the commandos themselves have asked

for. And I think it is its own statement about values that there's that level of a reasonableness. And in a sense one of the things that they have indicated that they want more perhaps than money, is this process of public acknowledgment for what they went through and for the service they gave. And so I think that is part of what is happening here.

But I do agree—the fundamental egregious decisions that were made, were made a number of years ago. Is there a pattern of secrecy that continues? The answer is yes. And I think we are always trying to break through that barrier.

Chairman SPECTER. Senator Kerry, we have just five minutes left on the vote, and the votes are going to be strictly enforced as to time. I agree with you that the Administration has acted properly with respect to the cooperation with you on your bill. I have a question as to what the Department of Justice is doing, the Department of Defense, and the CIA are doing, but my statements were not intended in any way to make any suggestion that the Administration was not acting in a forthright manner in dealing with this specific issue. And I appreciate the fact that it could be a precedent, and could it be extended, and could it be something they don't want to make a judgment on or make a commitment to before they see other facts. And that's what we have to pursue. And I agree with you that the acknowledgment is very important and that this hearing and perhaps subsequent hearings can accomplish that.

Senator KERRY of Massachusetts. Thank you, Mr. Chairman.

Chairman SPECTER. Thank you very much, Senator Kerry.

We're going to stand in recess for a few moments until we conclude the vote, and we will continue with the hearing in about 10 to 15 minutes.

Thank you.

[A recess was taken from 9:33 a.m. until 9:59 a.m.]

Chairman SPECTER. We are now going to hear from Mr. Ha Van Son, former commando, who is speaking for not only himself, but others; and Mr. Sedgwick Tourison, author of the "Secret Army, Secret War." Let us begin with you Mr. Tourison.

Thank you for joining us and we look forward to your testimony.

STATEMENT OF SEDGWICK TOURISON, AUTHOR OF "SECRET ARMY, SECRET WAR"

Mr. TOURISON. Senator Specter, Senator Kerrey, distinguished members of the Senate Intelligence Committee, thank you for this truly unique opportunity to appear before you today to speak about the lost commandos.

Chairman SPECTER. We would ask you to limit your testimony to 5 minutes if you could. Your statement will be made part of the record. May we use the light please.

Mr. TOURISON. I authored the book "Secret Army, Secret War" published by the Naval Institute Press in July 1995. My book is a tragic story about the over 450 Vietnamese commandos who worked for both the United States and the Republic of Vietnam. All were declared dead after landing inside North Vietnam. In December 1988 one of the surviving agents asked me to write about the commando force that survived 15 or more years at hard labor while

convicted of espionage. And I knew that I would be challenged to present fact, not opinion; truth, not propaganda. The man who asked me to do that is seated behind me to my left, Le Van Ngung, former commander of Team HADLEY, landed in North Vietnam, January 25, 1967; declared dead June 1967. He is today, as was then, very much alive.

In January 1993, the declassified history of our wartime covert operations confirmed the terrible chilling fact. We declared all our covert agents dead, even with the certain knowledge that nearly all were taken prisoner and were last known alive in captivity. General William C. Westmoreland, our wartime commander in South Vietnam, has stated the following for the record in regard to the actions of some of our own officers who directed our Vietnamese commando agents. "If I had known then, what I now believe to be the facts, I would have fired a lot of them."

In Philadelphia, Pennsylvania stands a monument to Stephen Girard, an American patriot of French ancestry. The monument to which I refer is Girard College, my alma mater, an institution that educates children without fathers. Inscribed inside Girard's main building are the words of its founder: "My deeds must be my life. When I am dead, my actions must speak for me." What I have written about our Vietnamese wartime agents is my deed. Others will measure its worth. The children of our Vietnamese wartime covert operatives lost in North Vietnam grew up without a father, families lost a son, and siblings lost a brother. I share with them the pride of our misdeeds.

An issue that many of you are wrestling with is a simple one. Who was responsible for what happened during the war, and what are our responsibilities today? I can answer the first. Others must answer the second.

A little background. In January, 1993, I contacted an attorney, John Mattes, about the agents. Mr. Mattes had not been aware of these commandos and the Joint Chiefs of Staff study of our covert operations. In the fall of 1993, Mr. Mattes agreed to seek compensation for these agents. I located and introduced to him over 350 surviving agents and the next of kin of those who perished. Some of these agents are here today. Before Mr. Mattes contracted with any potential clients, I signed an agreement with him that prevented me from receiving one cent of any compensation for his legal services. In my mind, it was then and still is today blood money of which I want no part.

The covert war that involved these agents was kept from the Pentagon Papers from one man in the Pentagon who knew the truth and kept silent, Daniel Ellsberg. Why was this covert war kept from public view for decades? My testimony may provide some insight into this.

For example, on November 8, 1995, I was invited by the Vietnam Veterans Institute to speak at the Army-Navy Club in Washington at a one day symposium to critique former Defense Secretary Robert McNamara's memoir. I ask that a copy of my remarks at the VVI symposium be entered into your record as it contains my conclusions about the effect of our disastrous covert operation against North Vietnam.

The CIA's failures in the covert operation were acknowledged by the late CIA Director William Colby to Mike Wallace on the May 5, 1996 program "60 Minutes." Mr. Colby agreed that we had an obligation to compensate these commandos and we had not yet fulfilled that obligation. I know that General Westmoreland echoes Mr. Colby's sentiments.

With regard to the question of who was responsible 30 or more years ago, the first confirmed payment of death benefits occurred during the CIA's stewardship. The wife of Dinh Nhu Khoa, an agent whose capture was reported widely in the international press and in particular during the public trial in Hanoi in December 1961, was paid death benefits in January 1962, by the Republic of Vietnam Armed Forces. I have documentary evidence that the Republic of Vietnam paid death benefits through December 1963 to the wives of other agents, and there is anecdotal evidence that the CIA was the source of these payments.

I must make one point clear from the outside. These were by and large citizens of the Republic of Vietnam. However, their activities were directed by the United States.

Major General John Singlaub, the MACSOG commander during 1966–68, was quoted in the Time Magazine issue of June 24, 1996 as follows: "I don't think there is a legal or moral justification for saying who should accept responsibility for them. They were not Americans." With all due respect to Major General Singlaub, our national intelligence community makes payments to agents all the time. And such payments are usually in accordance with the agent's contract for services. And I say this from the position as a former intelligence officer, including a case officer, who dealt with agents, including agent payrolls, during my 4 years in Laos.

Permit me to describe the contract that MACSOG had with the agents it sent in harms way. To begin with, the House of Representatives authorized appropriated funds for these covert operations to include agent pay. The funds were provided to and managed by the U.S. Navy through its annual budget. The Navy's 8 year financial records of MACSOG's covert operations, approximately 240,000 pages, were declassified beginning on June 5, 1996.

The covert operation was pursuant to the agreement as described by Senator Kerry. The National Security Council approved an expansionist program in November 1960 to include teams of armed agents. As of January 1966, the South Vietnamese Strategic Technical Service received monthly salary payments from its American counterpart. The counterpart was the Military Assistance Command Studies and Observations Group, MACSOG, then headed by Colonel Donald Blackburn. According to U.S. Marine Corps Colonel John Windsor, Operations Officer at MACSOG during this period, MACSOG Commander Colonel Blackburn's desire was that these relatives of agents in North Vietnam should be paid the death allowance and that the agent's monthly pay to the relatives back in Saigon be discontinued. Quoting from Colonel Windsor:

> When I told South Vietnamese Colonel Chun Van Ho what he wanted to do they cooperated to the fullest. They reduced the number of dead gradually, declaring so many of them dead each month until we had written them all off, paid them, and removed them from the monthly payroll. Colonel Ho didn't want the Vietnamese agents and the relatives to know that we lost so many. He nevertheless agreed to our proposal.

Colonel Blackburn's proposal, given the U.S. role in the operation was not a request, it was a command.

Then, as MACSOG, through the South Vietnamese, was writing off its agents, new agents were recruited into the program with the promise that their paid allowances would continue until they returned from their mission.

I wish to submit for the record, the January 1966 payroll report from the South Vietnamese headquarters that supplied the agents to MACSOG. The payroll identifies, by name, the first 28 agents to be wiped off the rolls and declared dead from the 110 agents inside North Vietnam.

Chairman SPECTER. Mr. Tourison, when the arrangements were made with these South Vietnamese commandos, was there an explicit understanding or any understanding at all that this was a secret transaction, which would be unenforceable in an American court?

Mr. TOURISON. No, sir; it was not. In point of fact, as the Joint Chiefs of Staff history demonstrates, the operational security was so sloppy—team names were left out in the open. Violations of fundamental rules of document security, personnel security, it was a nightmare.

Chairman SPECTER. Well, the issue has been raised in the litigation, that these were Secret arrangements, lips were sealed, and therefore are unenforceable. So my question goes as to the underlying facts here, as to whether that was the contractual arrangement between the parties.

Mr. TOURISON. Not to the best of my knowledge, from having spoken with over 300—nearly 300 agents. And having spoken with the Vietnamese officers who directed them. There was, between the South Vietnamese and the Americans who were managing the program, an understanding of the need for secrecy. However, MACSOG compromised that when, late in 1963, early 1964, it brought all the agents together at a huge training center for spies.

Chairman SPECTER. Well, when you are talking about secrecy there well may be secrecy as to what the mission is of the South Vietnamese commandos, but that doesn't go to the core issue as to whether the contractual arrangements are secret and unenforceable in an American court.

Mr. TOURISON. The agreements that the Vietnamese signed, according to their statements to me, were not stamped classified, nor were they told that they could never tell anyone what they were doing, nor were they ever told anything other than we will take care of you, just go to North Vietnam.

Chairman SPECTER. In the foreword to your book, "Secret Army, Secret War," you comment about almost feeling like a voyeur listening to a conversation, distinguishing between the rights of the South Vietnamese contrasted with the position of the United States Government, United States citizens. The essence, as I understand it, as to what you are saying here is that somehow, some people considered the obligation to the South Vietnamese to be an inferior obligation, no duties, because they were not American. Is that correct?

Mr. TOURISON. I believe that is a fair statement, Senator Specter.

If I may point out that with regard to the financial arrangements with the agents, there is ample evidence from the surviving agents that the money that we paid to the South Vietnamese side of the operation may, in many cases, never have reached the wives and the parents to whom it was to be paid.

Chairman SPECTER. Where did the money go?

Mr. TOURISON. I don't know, Senator.

Chairman SPECTER. Let me turn at this point to former commando Ha Van Son. We welcome you here, Mr. Son. Would you care to make an opening statement?

STATEMENT OF HA VAN SON, FORMER SOUTH VIETNAMESE COMMANDO

Mr. SON. First I appreciate everybody we made to be here to talk about my story. That's not my story, but I think that's a fact of the history of the Vietnam War. Was recruited by Americans and trained by Americans. And when I go operation by plane, of American. And in my operation the leader of my team is American.

Chairman SPECTER. When were you recruited, Mr. Son?

Mr. SON. 1967.

Chairman SPECTER. And pursuant to that recruitment, precisely what did you do?

Mr. SON. I didn't know who recruit me, but that's an American. And after I was trained and because I think this a secret war, so I didn't ask everything about my duty and everything.

Chairman SPECTER. What happened to you during the service you rendered as a South Vietnamese commando?

Mr. SON. No; I'm not a South Vietnamese commando. Only because——

Chairman SPECTER. How would you classify or categorize yourself? What would you call yourself?

Mr. SON. I haven't—I only a team member.

Chairman SPECTER. A team member?

Mr. SON. Yes.

Chairman SPECTER. Okay, what did you do as a team member?

Mr. SON. Team member. I received the command of my team leader is Mr. Jim Vernon Dexter. Go operation to Lao. In the border Laos and North Vietnam. And a tragedy. When he finished my operation with the helicopter came to pick up us, when the helicopter came to pick us up, the helicopter was shot down. And after I was captured with Mr. Vernon Dexter and Frank Curst. Mr. Jim Vernon Dexter was dead in Tangh Wa province, North Vietnam, because the Communist dead him. And one, the other GI is Frank Curst. He was exchange when Paris agreement was signed in 1973. And me stay in jail.

Chairman SPECTER. You were in jail?

Mr. SON. Yeah.

Chairman SPECTER. How long were you in jail?

Mr. SON. Twenty years.

Chairman SPECTER. Twenty years.

Mr. SON. Twenty years.

Chairman SPECTER. Almost twenty years?

Mr. SON. Yes. That's my tragedy.

Chairman SPECTER. And what happened to you while you were in jail. How were you treated?

Mr. SON. I was a long time. But I think, and I believe all the time in jail, I believe that the U.S. government and the Republic of Vietnam's government will pick us out of the jail. Because I wish somebody to come and get me. Nobody get you out.

Chairman SPECTER. How old are you know Mr. Son?

Mr. SON. Forty-eight.

Chairman SPECTER. And how old were you when you first went to jail?

Mr. SON. Nineteen.

Chairman SPECTER. Mr. Son, I am told that you have just today examined a document which is labeled a death gratuity. Which says that I, Ha Van Cau, ID Number 06935, received from liaison bureau the amount of 41,200 $VN.

Mr. SON. That's my father.

Chairman SPECTER. For the death of Ha Van Son.

Mr. SON. Yeah. My name.

Chairman SPECTER. That's you. Who was killed while on duty with FOB #1 Phu Bai. To the above amount is paid as survivors death benefits. This payment reflects full settlement of death gratuity and the United States Government is hereby released from any future claims arising from this incident. Pay computation 5,100 monthly pay times 12 months, 61,200.

Mr. SON. Yeah.

Chairman SPECTER. Would you mind stepping forward? I'd like to show this to you. Come forward and identify what purports to be your father's signature. Take a look at that.

Mr. SON. This is really my father's signature.

Chairman SPECTER. This right here is your father's signature.

Mr. SON. My father.

Chairman SPECTER. You are sure of that?

Mr. SON. Yeah. He was dead on 1993 before I came to America.

Chairman SPECTER. We have present today, I'm informed, Mr. John Mattis who's representing the commandos. You are Mr. Mattis? Would you mind stepping forward?

Mr. Mattis would you state briefly the scope of your representation of the commandos?

Mr. MATTIS. Senator, I have represented the commandos since 1993 in the investigation of their claim.

Chairman SPECTER. You are an attorney at law?

Mr. MATTIS. That's correct, sir.

Chairman SPECTER. And where are you licensed to practice?

Mr. MATTIS. I'm licensed in the federal claims court here in Washington and in federal courts in and around the United States.

Chairman SPECTER. Do you have your offices here in Washington?

Mr. MATTIS. No. My offices are based in Miami, Florida.

Chairman SPECTER. And briefly stated, what is the status of the litigation in the court of claims?

Mr. MATTIS. The status—we are—we have been pursuing discovery for the last several years. We've been seeking the government turning over to us documents which we believe to exist and inde-

pendent of the court process we were able to obtain the 500,000 top secret documents. Despite——

Chairman SPECTER. Not through federal discovery though?

Mr. MATTIS. That's correct.

Chairman SPECTER. How did you get them? Freedom of Information Act?

Mr. MATTIS. That's correct sir. We obtained them through a federal FOIA request which we made to the National Archives.

Chairman SPECTER. How many commandos are you representing?

Mr. MATTIS. Approximately 300.

Chairman SPECTER. And you have quite a number of the commandos here today?

Mr. MATTIS. That's correct.

Chairman SPECTER. Could you identify those commandos who are present in the hearing room.

Mr. MATTIS. Sir, we got commandos from the Atlanta region and some of the commandos' periods of incarceration range from 15 to 25 years with the longest being incarcerated until 1988. His wife, his children are still in Vietnam. We cannot get them out.

Chairman SPECTER. Who is that? Will that gentleman please stand. And what is his name?

Mr. TOURISON. His name is Win Van Thu.

Mr. SON. His wife and two children still be in Vietnam. They didn't approve.

Chairman SPECTER. I would like for all of the Vietnam commandos or members of the team to stand if they would please.

[Those commandos in the room stood for recognition.]

Chairman SPECTER. Thank you very much. Thank you.

I would like to call at this time Major General Singlaub. If you gentlemen would sit back for a few moments.

Major General Singlaub would you step forward, please.

Major General Singlaub, we very much appreciate your joining us today to help us on our inquiry into this matter. Your full statement will be made a part of the record. To the extent that you can summarize it within the course of five minutes, we would appreciate it. If it takes you some time longer, we understand that. And the floor is yours.

STATEMENT OF MAJOR GENERAL JOHN SINGLAUB, USA (RET), FORMER COMMANDER, MACSOG

General SINGLAUB. Thank you very much Mr. Chairman. I certainly appreciate the opportunity to address this Committee on this very important subject of the so-called Vietnamese special commandos. At the outset I want to make it clear that I have great admiration for the individual valor and the courage, and the patriotism of the majority of the people who participated in that program. They were volunteers. And these were very hazardous missions into Communist controlled North Vietnam.

I've been asked to explain my relationship to these commandos and I'll do that as quickly as I can.

I was on the Army General Staff in 1965 and was selected by the Chief of Staff of the Army, at that time Harold K. Johnson——

Chairman SPECTER. General Singlaub, how long were you in the military service?

General SINGLAUB. I served a little over 35½ years active duty.

Chairman SPECTER. And when did you terminate active duty?

General SINGLAUB. In 1978.

Chairman SPECTER. Thank you very much.

General SINGLAUB. I was selected by the Chief of Staff to take command of the MACVSOG organization, at that time commanded by Colonel Don Blackburn. I was a colonel at that time. I started my briefings in February of 1966 and departed the United States in April of that year and actually took command in May of 1966. And I retained command of MACSOG until August of 1968.

I think it is appropriate to make some reference to what MACSOG—MACVSOG actually was. There appears to be some confusion on that subject. MACVSOG was a DOD-established joint unconventional warfare task force. It was the U.S. component of a combined unconventional warfare task force to conduct covert operations in enemy-controlled areas in southeast Asia. That is Vietnam, Laos, and Cambodia. MACVSOG was truly a joint command. It had all of the services represented in the joint table of distribution. And it had special U.S. ground, sea and air units that were assigned to MACSOG for the conduct of its covert operations.

The basic concept of the operation was that the Vietnamese government would provide the operational personnel while the U.S. would provide the advice, training assistance, technical support and ultimately, of course, the funding, as it did for all of the forces engaged in that conflict.

The commandos belonged to one of the parts of that organization, referred to as OP34 ALPHA. It was a relatively small part of the total SOG program. This particular program was initiated in 1960, as has been indicated by the CIA, and transferred to the Department of Defense in January of 1964 when MACSOG was established. And these covert operations as opposed to clandestine operations were transferred to the Department of Defense.

And the mission was to introduce these intelligence assets into North Vietnam to perform basically three missions. First, was to collect positive intelligence on the North Vietnamese in North Vietnam. The second was to conduct limited and very specific sabotage activities. And finally their mission would be to become a cadre for a resistance operation against the North Vietnamese communist regime.

Now, the third phase, or the third mission was never fully implemented by the OP34 teams.

Chairman SPECTER. General Singlaub, how many of the South Vietnamese men were involved? In the overall operations?

General SINGLAUB. Counting all of our activities?

Chairman SPECTER. Yes.

General SINGLAUB. There were several thousand.

Chairman SPECTER. Several thousand?

General SINGLAUB. Yes. There were—at the maximum, I believe there were about 500 Americans——

Chairman SPECTER. And several thousand Vietnamese?

General SINGLAUB. Yes.

Chairman SPECTER. Is it true that when they were taken prisoners, that there was no effort made by the United States government to secure their release?

General SINGLAUB. I cannot say that that is accurate.

Chairman SPECTER. Do you know of any effort made by the United States government to secure their release?

General SINGLAUB. These were not the responsibility of the U.S. Government. Let me point out how the control was in the hands of the Vietnamese. This is a very important part of this because I've heard allegations of criminal behavior and deliberate efforts to take them off the rolls to save money.

Chairman SPECTER. Were they not deliberately taken off the rolls of the United States payment obligations?

General SINGLAUB. Not to save money.

Chairman SPECTER. Well, were they taken off the rolls?

General SINGLAUB. When they were determined or believed to have been—fallen under the control of the communists they were taken off the lists as active assets in North Vietnam.

Chairman SPECTER. But they weren't dead at that time, were they?

General SINGLAUB. They were declared a nonviable asset. Now the arrangements——

Chairman SPECTER. Now wait a minute. When they are declared a nonviable asset, because they are in custody, performing a mission that the United States government asked them to undertake——

General SINGLAUB. No, that's not true. You're starting with a basic assumption that is false. The United States government did not ask them. The United States government did not recruit them. We provided assistance to a basically Vietnamese intelligence operation.

Chairman SPECTER. Did we train them?

General SINGLAUB. We assisted in the training.

Chairman SPECTER. We assisted in the training?

General SINGLAUB. That's correct.

Chairman SPECTER. We paid them.

General SINGLAUB. We paid them through the Vietnamese, but that's true of every member of all of the forces. The Koreans and the Thai and all the others who participated in that war.

Chairman SPECTER. Well, we may have acted improperly in a lot of other cases. That doesn't justify it to say that we paid them the same way we paid them in Korea and Thailand and other places.

General SINGLAUB. No, I'm talking about——

Chairman SPECTER. Excuse me. We had an arrangement with the South Vietnamese government to have these commandos perform a function that both the United States government and South Vietnam wanted carried out. Isn't that correct.

General SINGLAUB. Not quite.

Chairman SPECTER. Well, what is incorrect about it?

General SINGLAUB. The operation was initiated by the Vietnamese. Initially it was a priest who had come out of North Vietnam and he wanted assistance in recruiting people to return to North Vietnam. But this was done by CIA.

Chairman SPECTER. Okay, initiated by the South Vietnamese, but agreed to by the United States.

General SINGLAUB. Yes, agreed to for support, that's correct.

Chairman SPECTER. On a purpose which was for the benefit jointly of the Vietnam government and the United States government.

General SINGLAUB. That is correct. But, I go on to say that they were recruited by the Vietnamese. They were screened and vetted by the Vietnamese.

Chairman SPECTER. Was the United States government any less than a full partner in this operation, General Singlaub?

General SINGLAUB. Yes. We were less than a full partner in this particular part of the operation—of the total MACSOG operation. This was a Vietnamese originated operation. It was run by the Vietnamese. We had no say on their methods of selecting the agents. I made—many times I tried to get them to change or to introduce some psychological assessment to try to improve the quality of the agents. But I had no say. They ran that part of it.

Chairman SPECTER. Well, General Singlaub, with all due respect, I think that when you talk about the method of selection, you are at the fringe of the operation. When you talk about the initiation, that's an important point, but then the United States joins in. The United States is a participant. The United States is seeking their assistance for a purpose which is for the benefit of the United States as well as South Vietnam. And the United States is undertaking to pay them a certain amount of money.

General SINGLAUB. In accordance with the contract signed by the agents with representatives of the Republic of Vietnam.

Chairman SPECTER. Fine. So the Republic of Vietnam is involved. These individual men are involved, but the United States government is involved. And there is to be a monthly payment for these men doing certain things. Undertaking activities behind North Vietnamese lines. Now they are taken into custody so they are no longer able to perform an active mission. But they are in custody, they are in jail, they are subjected to torture——

General SINGLAUB. You have to know——

Chairman SPECTER. Let me finish my question please, General Singlaub—for performing a job that the United States jointly asked them to undertake. How can you, in any conscience at all, say that the obligation to pay them ends at a time when they are taken into custody totally beyond their control, carrying out a mission for the United States government and South Vietnam.

General SINGLAUB. We paid them—paid money to the Vietnamese to carry out the contracts that they signed with these agents. And the terms of those contracts were rather explicit. They were not all the same. They varied because of incentives that were put in by the Vietnamese to change it from time to time. But it stated in the contract, that if they were captured or killed, certain things would take place. And the Vietnamese carried that out.

Chairman SPECTER. Was it specified in the contract that if they were captured performing a mission jointly for South Vietnam and the United States that the obligation of the United States government to pay them would end?

General SINGLAUB. There was no obligation in that contract with the United States. The contract was not between the United States, or MACSOG, and the agents. It was between the Republic of Vietnam intelligence service and the agent who did the recruiting. They signed the contract. They adjusted the contract. And they came to us with a list of people who were entitled to various payments.

Chairman SPECTER. Well, if the United States government had no obligation under the contract, General Singlaub, why does this death gratuity payment state specifically "this payment reflects full settlement of death gratuity and the United States government is hereby released from any future claims arising from this incident." If there's no obligation, why does the United States government seek a release?

General SINGLAUB. Because the United States government was paying the money.

Chairman SPECTER. Because the United States government concluded that it had an obligation.

General SINGLAUB. Well, the obligation was the contract between the two elements of the Republic of Vietnam—their intelligence agents and the intelligence service and we were subsidizing that. As we did most other activities.

Chairman SPECTER. General Singlaub, by all legal interpretations the United States is a party to that contract, at least a third party beneficiary, has obligations, has benefits.

General SINGLAUB. That's right.

Chairman SPECTER. The United States government recognized that in this death gratuity release saying that they wanted to be absolved from all claims because they do have obligations; otherwise this language would be meaningless.

General SINGLAUB. Well it was to establish the fact that we do not have an obligation. That's why it was signed in that way.

Chairman SPECTER. It was to establish the fact that there would be no obligation after there was a release by——

General SINGLAUB. That's correct.

Chairman SPECTER [continuing]. These parties who got this sum of money, acknowledging that there was an obligation prior to the release. What's the point of having a release from an obligation if there is no obligation?

General SINGLAUB. It's a quit claim. It's to establish the fact that the United States does not have an obligation.

Chairman SPECTER. Well, the United States government is paying money to release them from an obligation which they recognize. General Singlaub, do you think the Administration is paying money here that they have no obligation to pay, as Senator Kerry testified here earlier today? Or if the United States government does go ahead and pay this money to these men, that they are paying money they have no legal obligation to pay.

General SINGLAUB. Well, I think there is some confusion that's come into this. The death gratuity that you are talking to here has nothing to do with OP35. The individual who came forward—I mean OP34 ALPHA. He was a member of OP35. And OP35 was in fact an American commanded organization which did cross border operations in Laos——

Chairman SPECTER. So you are saying as to Mr. Son, the United States did have an obligation as to him.

General SINGLAUB. Yes. Yes. Because he worked in OP35. I don't know why he is included in this group.

Chairman SPECTER. Well, so there were some South Vietnamese where the United States did have an obligation even under your interpretation.

General SINGLAUB. Oh, yes.

Chairman SPECTER. Well, how many were they?

General SINGLAUB. I don't have an exact figure. But it is considerably more than the limited number who were in the OP34 program. These individuals were part of the cross border operations, organized in teams of 12. Three Americans and nine indigenous. Some of the teams were Vietnamese, ethnically Vietnamese. Most of them were various tribes of Montagnard. And some were Cambodian. But that was different operation and was one that was in fact run by, and commanded by Americans.

Chairman SPECTER. Well, I had understood from your earlier testimony that people like Mr. Son, were not entitled to any payment from the United States because it was a South Vietnamese operation. But now you are saying that some of these South Vietnamese commandos or team members, whatever you call them, were operating under U.S. auspices and did have a claim against the United States.

General SINGLAUB. That is correct.

Chairman SPECTER. Why in the case of Mr. Son?

General SINGLAUB. When you read that, I thought that was from one of the commandos. It was not from one of the commandos. It was from Mr. Son. Who, by his statement, was a member of OP35, which was a completely different program. And there are—it was a much larger program than the OP34.

Chairman SPECTER. Well, dealing with Mr. Son's unit for just a moment, we've heard him testify about being in jail for almost 20 years. And you have a representation by the United States government here that he is dead, because they are paying a death gratuity. And they are paying him for twelve months. Was that a fair thing to do? Was that the total U.S. obligation to write him off as dead when he was in fact alive.

General SINGLAUB. We did not know that he was alive.

Chairman SPECTER. Well did you know that he was dead?

General SINGLAUB. Yes.

Chairman SPECTER. How could you know he was dead when he was alive?

General SINGLAUB. He was presumed dead which is a ——

Chairman SPECTER. It's a convenient way of getting him off the rolls.

General SINGLAUB. Pardon?

Chairman SPECTER. It's a convenient way of getting him off the rolls. How do you presume he is dead when there is no effort made to find out what happened to him or where he is?

General SINGLAUB. I reject the idea that there was no effort made to find out where he was. If he was——

Chairman SPECTER. What effort was there made to find out what happened to Mr. Son?

General SINGLAUB. Those teams would send patrols back in and look, search the area. He never came up on any captured list. And so he was assumed to have been killed in the fight that took place when his team was—encountered the enemy.

Chairman SPECTER. Well, General Singlaub, those captured lists were hardly conclusive as to what had happened to the individuals. It doesn't rule out his being taken prisoner and being in jail which in fact he was. Does it?

General SINGLAUB. Well, no; that's true. The same thing applies to the Americans. One of the programs within MACSOG was involving with E&E. The evasion and escape operations. We had the Joint Personnel Recovery Center, as a part of activities. And we kept track of every American that was captured, or listed as missing in action. And we made efforts to retrieve some of those. And we certainly did it on those OP35 people. Because they were close in. And we ran operations to locate them at the time. We ran rescue operations.

Now, I don't know the exact reason, but in most cases, but when someone was declared dead, it was because a fellow team member who was rescued said that he saw him dead or seriously wounded and they could not bring him out.

Chairman SPECTER. But of course you don't know whether that happened in Mr. Son's case.

General SINGLAUB. No, I do not know that.

Chairman SPECTER. General Singlaub, do you think Mr. Son was fairly treated.?

General SINGLAUB. In view of the fact that he was captured and spent a lot of time in prison, I cannot say that he was fairly treated.

Chairman SPECTER. Do you think the United States Government has an obligation to do more than pay him for the 12 months paid under this death gratuity?

General SINGLAUB. I think that the United States is a very generous and compassionate society and we try to do what is correct. Not only what the contract specifies.

Chairman SPECTER. My question to you was do you think the United States government has an obligation to pay him for more than the twelve months under this death gratuity?

General SINGLAUB. In view of the fact that he was not killed, yes.

Chairman SPECTER. I would yield now to Senator Kerrey. I have an obligation, that I'm going to have to excuse myself for about 15 or 20 minutes but I will return as soon as I can.

Vice Chairman KERREY. I'll manage for 20 minutes. General, before I get into some questions, I may, since I'm now in charge, ask one of the other witnesses to come back up that I didn't have a chance to ask questions in my absence.

But one of the things I think is important to set here is that in 1972 both the Republican and the Democratic convention endorsed platforms that said the United States should get out of Vietnam. And in 1975 we got out of Vietnam. And most of the newspapers in America and many, I would say a majority of Americans said get out, don't go back, turn your backs, forget it.

I mean, that's the historical context as I see it. We ignored what was going on in Cambodia. We ignored commitments that we made

to the Hmong in Laos. We ignored most especially the commitment that we had made to the South Vietnamese to stay with them regardless of what happened. I mean that's the political context of '72, '73, '74, '75. I think one has to be a bit careful in just pulling this one historical event here, completely out of context. I mean, I visited Vietnam in '89 and '90. And in '90 I had the occasion to ask the communist leaders in the North about the South Vietnamese, the ARVN soldiers, and their treatment of ARVN soldiers, which has been atrocious. Which has been brutal. The reconciliation has not occurred. The denial of human rights. The denial of civil rights. The denial of all opportunities for jobs, for education, even after the re-education camp and the torture and the mistreatment after the war itself was over is all sort of air-brushed away by the communist leaders in the North.

So I asked them this, about whether or not they were going to reconcile. And they said, well we have a man who is in the assembly when you go down to Ho Chi Minh City. We'll set up a meeting. And I met with this man in his office in Saigon and he said to me coming out of his office, something that was not quite an epiphany for me, but certainly it opened my eyes to what we had done. And he said, quite simply, we believed you. We believed you when you said you were going to stay with us.

I mean, the window was closed. The door was shut from '75 on. And so for us to come back now and say that this was the CIA who did all this, or the DOD that did all this, America shut the door. There was a genocide in Cambodia we ignored because we didn't want to go back into Southeast Asia. We didn't want to get involved in all of that. There were protests allowing the boat people to come to the United States of America. They weren't always welcome in many communities. And still, I think there is an unwillingness to face the general suffering amongst the people in the South.

Anyway, I just set that down as a very brief analysis, or statement of context for this particular discussion.

One of the things that I would like to inquire about and it may require Mr. Son to come back up as well, I'm not sure, or at least it may require some responses, and if it does, I would be pleased to have him and Mr. Tourison to come up as well. It appears that these operations—you were the head of MACSOG, when did you take over head of MACSOG did you say?

General SINGLAUB. In May of 1966.

Vice Chairman KERREY. In May of 1966. So I can't—I'm looking at the list of commandos that are attending the hearing today and they go back, I presume, that there was an operation in '64, I presume the date of incarceration is the day of the operation. I presume that's the case. I see someone nodding back over here.

General SINGLAUB. In many cases that was true, but many of the teams lasted for weeks or months so it's not an exact——

Vice Chairman KERREY. So I see an operation in '64, purses rolled up in 1964, the mission failed; '65 also captured, incarcerated; '66 captured, incarcerated, two more, three more, '64, another '65, '62, '62. The question is that I have is, number one, what happened? Why were they captured? Were they given up by their own people? Was this—were these missions compromised? Did they merely get exposed when they went in the North?

And secondly, why did—if they were failing all the time, why weren't they stopped? Why weren't they stopped? Why did we continue them in the face of this kind of failure?

General SINGLAUB. Those are good questions. And certainly questions that I asked when I took command and asked several times afterwards. And I believe it was after I came back and briefed the Joint Chiefs of Staff in the summer of 1968, that they did allow us to terminate them. There was great pressure from the Administration to keep those assets alive. They wanted to indicate that we had intelligence forces in North Vietnam. When I was briefed in early 1966 out at the CIA headquarters, we went over all the teams. They gave their views of whether they were viable or not. In most cases they were not. But, in analyzing what went wrong, the assumption was there was some problem with operational security. Operational security was changed.

Vice Chairman KERREY. Mr. Son and Mr. Tourison would you mind coming back up again so I can perhaps ask some—I apologize. I was not here when Mr. Son provided testimony. Does he require an interpreter?

Mr. TOURISON. He speaks English. If you keep the questions simple and direct, Senator, he will pick up.

Vice Chairman KERREY. Mr. Son can you describe the circumstances under which you were captured in 1967, is that correct?

Mr. SON. Please repeat.

Vice Chairman KERREY. You were part of an operation—you went on an operation in 1967.

Mr. SON. Yes.

Vice Chairman KERREY. And you were captured by North Vietnamese forces.

Mr. SON. Yes.

Vice Chairman KERREY. Can you describe the circumstances of your capture and why you believe you were captured?

Mr. SON. I went operation with my team.

Vice Chairman KERREY. How many men on the team?

Mr. SON. Eight members. Three American. Three American, is team leader, vice team leader and one, the other man I think he did transmission.

Vice Chairman KERREY. And you were—just to respond earlier, General Singlaub, he was a member of OPLAN 35?

General SINGLAUB. That's correct. Cross border operations which was a completely separate operation that——

Vice Chairman KERREY. You would recognize——

General SINGLAUB [continuing]. Was handling.

Vice Chairman KERREY. You would recognize him as a U.S. employee. If he's OPLAN 35 he's a U.S. employee?

General SINGLAUB. That's correct.

Vice Chairman KERREY. Any why wasn't he asked for in the Paris conference in '73?

General SINGLAUB. He was presumed dead. One of his team members who did survive, apparently indicated that—assumed that he was dead.

Vice Chairman KERREY. Mr. Tourison, you are shaking your head "no"?

Mr. TOURISON. I have spoken with—the team interpreter happens to be in California. The incident where Mr. Son was lost was a distressed incident, and was so distressful for the family of Master Sergeant Ronald Dexter who was one of MACSOG's own NCOs. They lost their first helicopter, they had to transfer over to a second——

Vice Chairman KERREY. They inserted by helicopter?

Mr. TOURISON. Yes, sir.

Vice Chairman KERREY. Two helicopters?

Mr. TOURISON. They were inserted by helicopter. And got into a firefight within the first 24 hours.

Vice Chairman KERREY. Do you know enough detail? When was it in '67?

Mr. TOURISON. July 1967.

Vice Chairman KERREY. Did they go in at night, in daytime?

Mr. TOURISON. They went in during the daytime. Set up their patrol base along the ridge line. Next morning got into combat.

Vice Chairman KERREY. And where exactly did they land?

Mr. TOURISON. I believe it was in Savannahkhet Province, Laos. The next day they called for an air extraction. The first helicopter could not get them out. They brought in another helicopter. The helicopter was shot down. They crashed in the center of a North Vietnamese ammunition depot. Of the 11 Vietnamese who were aboard the helicopter, and they were the only Vietnamese on board the helicopter, 10 were taken prisoner, the 11th was crushed to death underneath the rear ramp of the Chinook. Two Americans were taken prisoner. Ronald Dexter, Master Sergeant, United States Army, Special Forces, and United States Marine Corps Lance Corporal Frank Cius.

Vice Chairman KERREY. And were these two men a part of the prisoner release?

Mr. TOURISON. Corporal Cius was repatriated, Ronald Dexter was not accounted for then, and I believe to this very day has never been accounted for. The Defense Attaché office——

Vice Chairman KERREY. But both of them were on the list in Paris.

Mr. TOURISON. Yes, sir.

Vice Chairman KERREY. And why in your judgement was Mr. Son not on the list?

Mr. TOURISON. I do not understand why, particularly with General Singlaub's statement, that these were clearly, in the case of the OPLAN 35, those lost in cross border operations in Laos—and they lost hundreds of men—and the evidence of death is not there. No one was taken, no one returned from that downed helicopter. Ronald Dexter was listed as missing in action. Kept on the books. Name was there. Frank Cius. Kept on the books, name was there. Frank Cius returned alive. Ronald Dexter is yet to be, has yet to be returned. But all the Vietnamese on that team that survived, of the ten, only Ha Van Son was kept in North Vietnam. Other agents were repatriated in the spring of 1973 as political prisoners. Colonel "Bull" Simons went to the United States Court of Federal Claims in Honolulu, Hawaii and got back pay. From date of capture until date of return. That was paid by a United States Army officer in Saigon. A U.S. Army interpreter, Bill Bell, who you may

be familiar with from his service later on in Hanoi, executed—translated the quit claim agreement in Honolulu, Hawaii in the spring of 1973, after the Pacific Command ruled Colonel Bill Simons got money from the United States Court of Federal Claims. Back pay. Civilian and regular Defense group. Date of capture to date of return. But not for Ha Van Son. Because he was the only member of his ten man team to survive that was not repatriated.

Vice Chairman KERREY. Who was in charge of the team?

Mr. TOURISON. Master Sergeant Ronald Dexter on the U.S. side. He was beaten to death, on the evidence we have, when he was in North Vietnam before they got to the Hanoi Hilton.

Vice Chairman KERREY. So a U.S. Army Special Forces Sergeant was in charge of the team?

Mr. TOURISON. Yes, sir. Frank Cius was a door gunner on the helicopter.

Vice Chairman KERREY. And what do you view as the cause of their being compromised? Did they just fly into an area——

Mr. TOURISON. In this case, Senator, they got into a hot area. It happened many, many times. They did not necessarily know they were coming. Except for one thing. There was a mole. And General Singlaub looked for the mole. The record on that is clear. General Singlaub tried for 2 years. His predecessors had tried. Who was the mole? Who are the people on the inside?. And they couldn't find them. One month after my book was released, Vietnam's Interior Ministry placed the mole on Vietnamese national television. Former South Vietnamese Army Colonel, Lt. Col. Do Van Tien, deputy chief of covert operations into North Vietnam, recruited by the South Vietnamese in 1956. He admitted that he during the length of the entire program had compromised to North Vietnam's intelligence service the prior landing site of all teams sent into North Vietnam.

Vice Chairman KERREY. Is there any chance in your mind that the people for whom we are considering to pay a claim could be that mole?

Mr. TOURISON. No, sir.

Vice Chairman KERREY. Why do you say that? What's the evidence of that conclusion?

Mr. TOURISON. Colonel Gilbert Layton, who passed away recently, was involved with covert operations in South Vietnam and always felt during his period in South Vietnam in the early 1960s working for Bill Colby, that 10% could have been working for the North Vietnamese. But he felt he had an edge on them of nine to one. I have talked with all of these agents who are here today. I have talked to nearly every survivor and next to 100 next of kin. I know what these people went through. I have tracked each of them year by year through the prison system. I know who was there, I know who was not. If Vietnam's Interior Ministry had recruited one of these people and sent them over to the United States after they got out of prison. Senator anything is possible. I think it's unlikely.

Vice Chairman KERREY. But no hard evidence. I mean one conversation, and an estimate. No evidence that would stand up in a serious counterintelligence evaluation, investigation.

Mr. TOURISON. There are two, one of the first agents that William Colby sent to North Vietnam, Agent ARIES was a double agent.

Vice Chairman KERREY. What's your view—I presume you have some knowledge of U.S. involvement in training the Hmong.

Mr. TOURISON. No, sir. I was the intelligence liaison officer with the Royal Army intelligence staff and essentially just as General Singlaub worked with the South Vietnamese in the covert operations, I handled Royal Army interrogation operations in Vientiane essentially between 1971 and 1974, though my actual full time time of arrival was March of '71. I also handled two military regions in Laos: military region one, military region five, and was responsible for overseeing the production of all interrogation reports that we, in a very small team, the Laos Exploitation Team, did between 1971–1974 during my stewardship.

Vice Chairman KERREY. I presume when this bill is taken and referred to either Judiciary or Armed Services that they can take up the question about both the legality of the claim and the potential widening of the claim. I mean that is a great fear that we've got here. And I think it's very important for us to respond here in a very straight forward fashion and not get kind of caught up in the mire of guilt that we understandably feel about the damage done to these individuals. I think it is very important that we understand that we have U.S. law that we are dealing with and deal with it, as I said, in a very straight forward fashion that is conscious of what could follow if these awards are made, and conscious as well of what the citizens themselves would like us to do.

I would just like to explore if I could, this idea that the operations were continued. Now General, you said you asked for them to stop and as I see on the sheet there is only one in 1970. So you are saying that about after '68 the counter border operations——

General SINGLAUB. The cross border operations were increasing at that time, because they were very successful. The operations into North Vietnam had not been successful from the outset. We know now that is was because of a high placed mole in the South Vietnamese government that was tipping off the North Vietnamese. Changes in operations security didn't have an impact on that.

Vice Chairman KERREY. Mr. Son, I was asking you and I——

General SINGLAUB. The point is that Mr. Son was not a part of that program. He was in a program that continued right up until the time that we started our withdrawal.

Vice Chairman KERREY. And by the way, I can reach no other conclusion, when answering my own question, as to why they were not included and Americans were included on the list that was presented in '73 in Paris is that they are Vietnamese and so they are not on the list. I mean if he is a U.S. employee we would not take a single individual, saying well, Lt. Kerrey was killed. I saw him die. A single individual testifying to my death as a casualty would not be sufficient to keep me off a list. The U.S. would investigate further and make sure that they verified with more than just one eye witness. Again, I take that back to what I said earlier. I do think, from 1975 to 1995, you know, including Robert McNamara's rather remarkable mea culpa, going over to Hanoi and having an interview with General Giap and saying what the hell did happen

in August of 1964, after coming to Congress and saying I have incontrovertible evidence that indicates that we were attacked. So I mean I do think this is something that just can't be laid at the doorstep of our negotiators and Mr. Kissinger in particular. As I said, I can reach no other conclusion other than to say that if Mr. Son's name was Bob Kerrey, serial number 723089, that he would have been on the list. They would not have accepted a single witness. And as I said, I think that was unfortunately and tragically a general attitude held in the entire country, the entire United States, and it does make us in 1996 not look altogether good in that regard.

General, you were not responsible for taking this action, but I must say that I, I find myself reaching that conclusion and it's not a very happy conclusion and it's not a very proud conclusion.

General SINGLAUB. I bring up the point again, though, that we have to make the distinction between the two types of operations that we were talking about. Mr. Son was in an operation that was run by the Americans clearly, and I don't know whether or not his name was on the list——

Vice Chairman KERREY. Was not.

General SINGLAUB. You know that?

Vice Chairman KERREY. Not on the 72 Paris list. He was not presented as a POW.

General SINGLAUB. Of course, I have no idea what criteria was established to put them on the list.

Vice Chairman KERREY. That's the point I am making. Obviously the criteria was lower for an ARVN than it was for a U.S. soldier.

General SINGLAUB. That's right.

Vice Chairman KERREY. Mr. Son, can you tell me in your own words why you think the operation failed that you were on in—get my number right—1967, July of '67.

Mr. SON. When I go on operation in 1967——

Vice Chairman KERREY. Mr. Son, excuse me, could you pull the microphone just a little closer.

Mr. SON. On 1967 I was captured. After I was capture because that two helicopter were shot down and when I was capture I usually believe that the American government will pick me out—pick me back. But I think I keep my belief until interview some of my friend got interview from HO program.

But sometime I think the American that run the plane didn't take care for me, because on Paris Agreement I think U.S. government have negotiate with the government communist. What I didn't know maybe Mr. Singlaub. Right now I know him. Before time I didn't know him because I am only a team member. Right now I know you. You are major colonel. But I think you did your work with the responsibility. You didn't think about what you do.

And so that I didn't know how can I tell with you what right now I talk about my life with everybody, and with the Senators office, because I think the USA, the United States of American is good nation and that is my deal when I was young. But sometime there is somebody to do something with the responsibility. So that when I came here I related with my friend. Every commando they were put in jail with me, all the time about 20 year over, I say with my friend. We had to fight. Right now we had to fight. But sometimes

we fight for freedom and defeat the communists. Right now we have to fight for our honor.

The problem is not only the money. No money pay for my life. But I think my honor and my friends honor must be recognition, get recognition. And money I think does of course. And I want to talk with everybody about some leader didn't think about the man who fight for the freedom.

That's all.

Vice Chairman KERREY. Well, Mr. Chairman, as you can see, I asked the other witness to come back up because I was not here earlier and I am pretty much done in my questioning, and I make it clear that what I said earlier, that U.S. officials requesting our prisoners in 1973 did not include an employee of the U.S. government that all four parties had a responsibility here, as well as the South Vietnamese government, to present their list of people that they believed were still being held, and there is I think perhaps an argument that could be made that the U.S. government might have been concerned about the treatment of South Vietnamese nations if we were to say to the North Vietnamese, here's a list of people and included on that list are South Vietnamese nations. I mean, I have no reason to know that that is the case, but one could certainly argue that this may have been a U.S. concern at that time.

Nonetheless, it seems to me still to be the case that the United States should have argued for the release of allies who were on a mission headed by U.S. forces.

Anyway, I appreciate the witnesses testimony, Mr. Chairman, I appreciate the hearing and the opportunity to ask the questions.

Chairman SPECTER. Thank you very much, Senator Kerrey.

Mr. Son, I think your last statement about honor is a very, very important one, and I commend you for making it.

General Singlaub, let's go back to the point about the distinction between these two categories of units. I think you classified them 34 and 35?

General SINGLAUB. That's correct; yes, sir.

Chairman SPECTER. Mr. Son is in the Unit 35, where the United States government, even under your interpretation, was a party to the arrangement?

General SINGLAUB. They were recruited, trained by Americans, and led by Americans in that program in cross border operations, primarily along the Ho Chi Minh Trail.

Chairman SPECTER. And you testified that you think there was an obligation on the part of the United States government to men like Mr. Son who were in a 35 contingency?

General SINGLAUB. Absolutely. Many Americans lost their lives trying to recover team members who were separated from their team in an insertion or in a conflict that took place after insertion. We felt very strongly that these were members of our overall effort, and we had complete control of them, and I cannot—just because I don't know what the criteria was for putting the names of the Vietnamese and the other non-Vietnamese indigenous people who worked on these teams on the list at Geneva—or at Paris, I mean.

Chairman SPECTER. Do you think that men like Mr. Son in Unit 35 should have been people whom the United States government pressed to have released by North Vietnam?

General SINGLAUB. I am amazed that this name was not on it. I only can assume that he was presumed dead and therefore was not listed as an MIA.

Chairman SPECTER. When you come to the question of presumption of death, which is a complex legal subject in some jurisdictions—it's a matter of time, 7 years not having been heard from; questions about rebuttable presumptions—what were the standards, presuming somebody like Mr. Son to be dead?

General SINGLAUB. I do not know. That was generally handled by the Vietnamese and they had their legal advisors on that.

Chairman SPECTER. Well, it was more than the Vietnamese. It was a conclusion which was joined in by the United States under this death gratuity. There was a conclusion by the United States government that Mr. Son was dead—death gratuity.

General SINGLAUB. Yes, but that was a case not of—after a long period of time. The nature of the action in which he was ultimately captured was such that everybody was lost, as I learn now from Mr. Tourison, and I still don't know the name of this team, which might have——

Mr. TOURISON. Team Illinois.

General SINGLAUB. Illinois.

Chairman SPECTER. But why would the conclusion be that everyone was lost? Where there is combat, some are lost, or killed, others are taken——

General SINGLAUB. I believe you were out of the room when Mr. Tourison went over the operation in which two helicopters were shot down, they crashed, and eventually——

Chairman SPECTER. Does that relate to Mr. Son, Mr. Tourison?

Mr. TOURISON. Yes, sir. I would be happy to repeat it, Senator, if you would like.

Chairman SPECTER. Would you?

Mr. TOURISON. In July of 1967, after several days of skirmishing in Laos, a Chinook helicopter attempting to remove Vietnamese team members was finally shot down and crash landed in the center of a North Vietnamese ammunition depot.

Chairman SPECTER. Was Mr. Son in that helicopter?

Mr. TOURISON. He was in that helicopter, as were the pilot, copilot, Marine Master Sergeant Ronald Dexter, and a door gunner, U.S. Marine Corps Lance Corporal Cius.

Chairman SPECTER. And did Mr. Son confirm that—Mr. Son, did you confirm that you were in that helicopter? You were?

Mr. SON. Yeah.

Chairman SPECTER. But of course, you survived.

Mr. SON. Yeah.

Chairman SPECTER. Mr. Son, did others in that helicopter survive?

Mr. SON. Two American and some Vietnamese commandos.

Chairman SPECTER. Well, all right, I had not heard that, and I did have to step out of the room for a few moments. Here we have meetings going on simultaneously and hearing going on. It is a tough matter to cover them all.

But even with the helicopter crash, it isn't conclusive as to somebody being killed, because people do survive helicopter crashes.

But General Singlaub, I want to go back to this point about how many South Vietnamese there were in Contingency 35 and how many there were in Contingency 34, so that the record will be precise as to the two categories.

Can you give me a ballpark figure as to how many there were in Contingency 35?

General SINGLAUB. I cannot give you an exact figure. I can say that——

Chairman SPECTER. A few hundred?

General SINGLAUB. No; it was more than the 300 that—approximately 300 that we had in the Op 35 over the many years. It was a continually expanding program. There were, as I have indicated earlier, ethnically these people were Vietnamese and then a variety of Montagnard tribes as well as Cambodians. They were handled in different bases——

Chairman SPECTER. Well, there were several hundred.

General SINGLAUB. There were several hundred; yes, sir.

Chairman SPECTER. And contrasted with Contingency 34, there were several thousand.

General SINGLAUB. No. No. In Contingency 34, ALPHA, there were approximately 300.

Chairman SPECTER. And you think the obligation of the United States differed with respect to the people in 34 contrasted with 35?

General SINGLAUB. Yes, I do.

Chairman SPECTER. Well, all right. Taking up Unit 35, you think that we—the United States government did not discharge its responsibilities to those individuals?

General SINGLAUB. Well, until this case came up, I thought that we had done very well in taking care of the team members from these cross border operations under Operation 35.

Chairman SPECTER. Director Deutch has been quoted as saying, Time Magazine, June 24, 1996: "Last Week CIA Director John Deutch finally did take responsibility, realizing the revelations could endanger operations being run today. Foreign spies might now be far less willing to take risks for the CIA if the Agency got a reputation for not paying its bills," quote. "The CIA feels very deeply that it must take care of people who work for it, CIA General Counsel Jeffrey Smith told Time."

With respect to the statement attributed to Mr. Deutch, do you think, General Singlaub, that as a practical matter, that foreign spies might be far less willing to take risks for the CIA if these South Vietnamese are not paid?

General SINGLAUB. I think that that is a valid concern, and if I were in Mr. Deutch's position, I would take that—I would express that concern.

Chairman SPECTER. General Singlaub, do you know of any other instance where the United States government has acted towards men like it acted toward Mr. Son and his colleagues in Contingency 35?

General SINGLAUB. I do not know. I cannot—I know that we have conducted similar operations in other areas, and I would suggest that there might be a bad precedent established here because of the numbers of people who have participated in the intelligence operations of Korea, for example, in the Korean War.

Chairman SPECTER. Are you suggesting that there is a bad precedent because we treated people like Mr. Son unfairly, or are you suggesting there is a bad precedent because we may be paying money which would establish a precedent for future payments?

General SINGLAUB. For future payments, yes. I am concerned that there are probably hundreds of Koreans who would say they were in a similar situation. They were recruited by the Korean government, but we provided some support in the training of those agents. In some case flew the aircraft that dropped them, or put them ashore in North Korea.

Chairman SPECTER. How about the precedent of taking men like Mr. Son under operations controlled by Americans, and after he is captured, making no effort to get him back, and make a death gratuity payment for 12 months and not doing anything further to this minute, notwithstanding all this litigation and travail.

General SINGLAUB. I have to go back to the point that we did not know the actual situation of Mr. Son at the time. Certainly if we had known that, he should have been placed on the list, we should have fought very hard to have him returned. Why he was not on the list, I can't answer. I was not there.

Chairman SPECTER. Well, that's just to the list. But Mr. Son has been known to the United States government for a long period of time now—he is nodding yes—looking for recognition, looking for an acknowledgement of unfairness, and looking also for the payment of money while he was in captivity. Any justification for that conduct by the United States government, in your judgment, General Singlaub?

General SINGLAUB. No; I—I cannot rationalize that.

Chairman SPECTER. Okay.

I am told that we also have with us today General Counsel Jeff Smith of the CIA and General Counsel Mary DeRosa of the Department of Defense. Would you step forward for a moment or two?

Thank you very much, General Singlaub; thank you very much, Mr. Son; thank you, Mr. Tourison.

Mr. SON. Thank you.

[Pause.]

Chairman SPECTER. Mr. Smith, do you think that Congress ought to legislate to overrule the case of *Totten* v. *the United States,* which says that somehow lips are sealed in a secret arrangement and people cannot collect in a Court of Claims, because there is no justifiable issue?

STATEMENT OF JEFFREY SMITH, GENERAL COUNSEL, CENTRAL INTELLIGENCE AGENCY

Mr. SMITH. It is worth thinking about, Mr. Chairman.

Chairman SPECTER. Well, haven't you thought about it, Mr. Smith?

Mr. SMITH. I have not thought about a proposal that Congress overturn it until you raised it this morning, no, sir.

Chairman SPECTER. Okay, I will ask General Counsel DeRosa, to give you time to think about it.

What do you think about it, Ms. DeRosa?

STATEMENT OF MARY DEROSA, OFFICE OF THE GENERAL COUNSEL, DEPARTMENT OF DEFENSE

Ms. DEROSA. Well, first I would like to clarify, I am not the General Counsel, I am in the General Counsel's Office.

Chairman SPECTER. Are you adverse to a promotion?

Ms. DEROSA. That would be fine with me.

Chairman SPECTER. You are a lawyer in the General Counsel's Office.

Ms. DEROSA. Yes, I am.

Chairman SPECTER. How about overruling *Totten* v. *the United States*? Do you think it takes the Congress to do that, or can't the Department of Justice recognize a 126 rule which makes no sense today, and pay the money?

Ms. DEROSA. I am afraid I have not given that any thought before this morning either, and I really can't comment.

Chairman SPECTER. Okay.

Would you care to comment, Mr. Smith?

Mr. SMITH. First of all, Ms. DeRosa is a former colleague of mine at Arnold & Porter, Mr. Chairman, so I am pleased that she is sitting beside me. But she had not been prepared for this surprise testimony, so I would be happy to take the bulk of your questions, if I may.

Chairman SPECTER. Well, I don't know about that. Is either Mr. Arnold or Mr. Porter available?

Mr. SMITH. Sadly, no; they are——

Chairman SPECTER. I know what Mr. Arnold would say. I think he would say it's an egregious rule and we're not going to follow it. He was that kind of a tough, forthright guy.

Mr. SMITH. I think it is worth thinking about, Mr. Chairman. It has served us well in that we face a unique situation in the espionage business. We enter into a lot of agreements with individuals who agree to work for us to collect information or to engage in espionage on our behalf. With the vast majority of these people, we do not have contracts. That is to say, a formal contract that is signed and sealed and delivered. But we have agreements with them, we have understandings, we have handshakes, we have a variety of agreements with them that the CIA feels very strongly we are obliged to honor. And in some respects we feel even stronger about honoring these commitments on moral grounds than we would necessarily on legal grounds.

Chairman SPECTER. Mr. Smith, is it really a matter, as Director Deutch is quoted as saying, that foreign spies might be far less willing to take risks for the CIA if the Agency got a reputation for not paying its bills, or is it really a manner, as this quotation goes to General Counsel Jeffrey Smith, who says the CIA feels very deeply that it must take care of the people who work for it. Whom do you vote for as between Deutch and Smith?

Mr. SMITH. I am not sure I followed your question Mr. Chairman.

Chairman SPECTER. Well, is the paramount issue here the pragmatic one of encouraging spies to take risk with the CIA, as Director Deutch is quoted as saying, or the fairness issue, which general counsel Jeffrey Smith is quoted as saying?

Mr. SMITH. I don't see them as mutually exclusive. I think they are complementary. We need both. We ask people to take great

risks for us, and we have to be prepared to honor our commitments to them. And if we don't, we'd go out of business as a spy agency.

Chairman SPECTER. Well, I would ask you, Ms. DeRosa, to take the matter up with your superiors at the Department of Defense, and I would ask you, Mr. Smith to think about it.

Thank you all very much. That concludes the hearing.

[Thereupon, at 11:24 a.m., the hearing was concluded.]

[Additional information for the record follows:]

MCNAMARA'S COVERT WAR: THE ZENITH OF DECEPTION

(By Sedgwick Tourison)

The true story about the United States covert war against North Viet Nam ranks among the last most closely guarded secrets of the Viet Nam War. It was a war controlled more by Ha Noi than by Washington, a silent struggle that under Robert McNamara led us inexorably into an expanded conflict, a conflict we call today the Viet Nam War. It is through our understanding of how and why the covert war was doomed to fail, and the cover-ups of what actually happened 32 years ago, that we may begin to comprehend why the Viet Nam War expanded the way it did.

In April 1995, I watched Diane Sawyer's televised interview of Robert McNamara. Diane Sawyer asked McNamara if he had lied to the president. McNamara responded that he had not lied to the president because, as McNamara explained, to have told a lie meant to intentionally deceive and that, Robert McNamara asserted, he had not done.

Permit me to put it as succinctly as I can.

Robert McNamara misled President Lyndon Johnson and Robert McNamara lied to the congress. The combination of these two serious indiscretions created conditions that led Vietnamese Communist forces to prevail throughout Viet Nam.

If anyone has ever researched Defense Department documents from the period when Robert McNamara was the Secretary of Defense, it is easy to reach a conclusion that Robert McNamara was a hands-on person. He got involved and demanded a lot of detail. It certainly came as no surprise that the Joint Chiefs of Staff previously top secret study about our covert war against North Viet Nam contained reference after reference to events in which Robert McNamara was personally involved.[1] It is clear that he had an infatuation for numbers and details in the prosecution of both the overt war and the covert war.

Robert McNamara wrote in his memoir that he had not kept a diary.[2] I reasoned that it took some time for McNamara to pull together the documents he needed and most of his sources of information about the covert war were missing. Then, I discovered a great disparity between the facts contained in the July 1970 Joint Chiefs of Staff study of the Defense Department's effort in the covert war, an exhaustive study in 1969 that included 38 contemporaneous oral histories dozen oral histories and references by title and file location to hundreds of original official messages and other documents then in the custody of the JCS.

I easily identified major discrepancies in the chain of events of the covert war between what Robert McNamara had written and several thousand pages of 25 year old documents. The magnitude of the errors of fact persuaded me that neither McNamara nor those who helped him pull together the documents he needed to support his memoir had taken the time to research the covert war against North Viet Nam that had been largely declassified in December 1992. Had that happened, of course, Robert McNamara would have been required to reconsider what he planned to write about the covert war and this might have led him to other revisions as well.

Let me put forth some simple statements about the impact of the United States covert war against North Viet Nam, facts and details that are documented in "Secret Army, Secret War."

First, a fundamental counterintelligence failure by the Central Intelligence Agency in the conduct of the covert war against North Viet Nam during 1960–1964 is a root cause of the Viet Nam War.

Second, Robert McNamara's successor covert operation through Operations Plan 34A was so fundamentally flawed and subsequently corrupted that it guaranteed that the United States would be drawn into a much wider war along lines designed by North Viet Nam.

Third, Robert McNamara gave knowingly false information to members of the U.S. Senate about what was happening in our covert operations against North Viet

Footnotes at end of article.

Nam, thereby misleading the congress about the actual covert war that prompted the Gulf of Tonkin incident.

Allow me to draw an easily understood parallel between the CIA's counterintelligence failures in Viet Nam and more recent events.

I think that most of us are aware of Aldridge Ames, the CIA counterintelligence officer who worked for the KGB. Ames's treachery cost U.S. intelligence at least ten agents, most of whom were executed by the KGB. In terms of the Viet Nam conflict, we find that similar CIA counterintelligence failures were present here too.

Our covert war against Vietnamese communist forces began years before French military forces withdrew from northern Viet Nam in 1955. After 1955 it became a very low-level and low-budget CIA covert operation piggy-backed on the South Vietnamese. The CIA's program was designed to develop stay-behind agents in the event that Communist forces prevailed in South Viet Nam. Then, in November 1960, CIA Saigon Station Chief William Colby received the National Security Council's approval to begin sending teams of armed agents into North Viet Nam. The United States then changed from using single spies to embarking on a most curious covert war that was ostensibly designed quietly to collect information but instead sent teams on missions that were actually intended to draw the attention of the North Vietnamese security services.[3] This would only have been done if the teams were intended to be captured, something no one will admit, and was copied from a program which had precisely that objective in Europe in 1942–1943.

Unknown to William Colby, there was a nest of spies inside the South Vietnamese counterpart of the CIA's covert operation. One of them was Do Van Tien, the deputy chief of the South Vietnamese office that carried out the Joint CIA-South Vietnamese covert operations into North Viet Nam. Another was a North Vietnamese agent who looked so appealing that the CIA agreed that he should be recruited, trained, and sent back to North Viet Nam where he operated on his radio for roughly nine years.

The South Vietnamese case officer who handled that agent, an agent known as ARES, was none other than Do Van Tien. Viet Nam surfaced Do Van Tien after my book "Secret Army, Secret War" was published.

These were not the only traitors within, there were others, all permitted to operate with impunity because of a deliberate effort to avoid sound counterintelligence practices.[4]

In all fairness to everyone concerned, we did not have all these facts some thirty plus years ago. The double-agent we learned about in roughly August 1985, the fact that the deputy chief was working for them we just learned about in August 1995. It has taken us nearly 40 years to find out these things and that is precisely the point; we should have attempted to learn the truth years ago.

According to the counterintelligence professionals working in CIA at the time, William Colby buried his intelligence head in the sand and did not really look for the spies. That failure is a root cause of the Viet Nam War that would soon follow Colby's departure from Sai Gon in the summer of 1962.[5]

Between 1960 and late in 1963, roughly 250 agents sent by the CIA and South Viet Nam into North Viet Nam were lost in an operation designed, funded, and directed by the CIA. Not one long range paramilitary agent team returned, although most were designed to land in North Viet Nam and remain there, undetected, for some years. By the end of 1963, the CIA has lost nearly all its agents, informing the Defense Department that a half dozen teams of agents had made it safely to their target area and were reporting by radio from deep inside North Viet Nam.[6]

One problem though; no one knew at the time was that all the teams working their radios from North Viet Nam had been captured and the team radio operators were working for North Viet Nam's Ministry of Public Security Counterespionage Directorate. Analysis of information the CIA provided to the Pentagon confirms the CIA was fully aware that most teams it landed inside North Viet Nam during 1961–1962 were captured and the CIA engaged in "radio play" with the team radio operators forced to transmit under duress.[7] This should have sent loud warnings that the CIA's operation into North View Nam was encountering a well-prepared hostile counterespionage force employing the same highly successful counterespionage techniques employed against the CIA across Eastern Europe a decade earlier.

William Colby acknowledges these failures were brought to his attention in 1963. But, by then it was too late, the die was cast, and any suspicions held by individual CIA officers fell victim to Washington's politics.

In 1963 the CIA literally flooded North Viet Nam with teams of paramilitary agents. They were all captured, usually by North Vietnamese forces waiting on the ground. But, those few teams the CIA viewed as viable, transmitting essentially worthless information from deep inside North Viet Nam, created an illusion that a covert war against North Viet Nam was a sustainable notion.[8]

In November 1963, McNamara met in Hawaii with senior CIA officials. According to McNamara's memoir, this was the first time the covert operation was raised. In fact, as well documented by William Colby and the Joint Chiefs of Staff official documents, this was the meeting when John McCone, the CIA Director, and Robert McNamara, the Defense Secretary, were to hammer out transferring the CIA's covert northern program to the Pentagon. Colby insists he informed McNamara that the covert operation would not work. What William Colby apparently did not tell the Defense Secretary was the fact that the CIA had effectively inhibited any counterespionage review of the entire operation.

In December 1963, Robert McNamara met with President Johnson. He asked the president to approve the Defense Department's takeover of the CIA's covert program against North Viet Nam, convincing the president that the Pentagon could put more muscle into the program than the CIA and use the resources to be committed under the plan to send a message to North Viet Nam. That message was that through increasing sabotage and eventually air strikes, North Viet Nam could be persuaded to rethink its infiltration of South Viet Nam. Such notions were sheer lunacy in 1964 and they are even more absurd today, given the pitifully small resources actually employed.

The president approved Robert McNamara's recommendations. Over Christmas and New Year's of 1963, senior staff hammered out the framework for McNamara's Plan 34A. This was a successor to Plan 34 previously developed by William Colby.

Before examining what happened next, it is important to examine Robert McNamara's recounting of his previous brush with CIA covert operations at the time of the mid-1961 Bay of Pigs disaster. As McNamara recounted in his memoir, he went to President Kennedy in the summer of 1961 and offered to accept the blame for the failure at the Bay of Pigs. McNamara describes admitting he had become a silent and uncritical observer to what he, McNamara, considered a CIA operation for which the Joint Chiefs of Staff had gone on record as claiming it could well lead to an overthrow of Castro.[9] Thus, for Operations Plan 34 and 34A, McNamara was no longer an uncritical observer unaware of the plan and unable to challenge any aspect of it. He was, after all, the manager of the implementation of Plan 34A. He had ample opportunity to learn from the mistakes of 1961. He did not and today seems incapable of understanding that failing.

McNamara writes in his memoir that this was a CIA-supported operation. McNamara is wrong; the president approved Plan 34A to be Robert McNamara's Pentagon sponsored program.

From the end of December 1963 through January 1964, McNamara was up to his elbows in a series of very high level actions that included formation of a military special operations group in Saigon on 24 January 1964. This group, known initially as the Military Assistance Command Special Operations Group (MACSOG), later renamed the Military Assistance Command Studies and Observations Group, took over at least 169 paramilitary agents whose morale had crumpled and six teams of agents transmitting from deep inside North Viet Nam.

The agents concluded that the United States had a hand in the Diem coup, reasoning that if the United States was willing to dispose of their president, the United States could easily get rid of the contract agents. The Joint Chiefs of Staff study confirms the agent's fears were well founded.

The first U.S. Army commander of the special operations group did just that; he got rid of them by dropping them over North Viet Nam with no hope they would accomplish the missions assigned them. The colonel explained that he had to get rid of the agents. He was afraid to release them inside South Viet Nam where they might divulge details about the United States covert war against North Viet Nam. In reality, Communist North Viet Nam had been reporting for five years the capture of most of the teams it did not coopt and press into service as turned teams. The CIA and Pentagon were aware of this reporting through the foreign Broadcast Information Service monitoring of North Vietnamese press releases, information kept from the next-of-kin of agents reported or killed.

What the colonel had to have known was that the CIA arranged for nearly every team MACSOG deployed to North Viet Nam to be landed in extreme northwestern North Viet Nam adjacent to Sam Neua Province, Laos, or adjacent to Xieng Khouang Province, Laos, where the CIA intended the teams would function as an early warning screen to report about Communist forces entering North Laos. These teams parachuted into this area to reinforce teams the North Vietnamese had captured three years earlier and whatever information came from them was obviously disinformation. A detailed analysis of the agent team landing sites confirms the team had missions that did not relate any infiltration toward
South Viet Nam, their missions were limited solely toward North Laos. This means that at the Washington level and within three months of the president's approval

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to transfer the operation from CIA to the Pentagon, the national intelligence community effectively emasculated the forces designed to send an ineffective message to Ha Noi and annulled the purpose of Operations Plan 34A. It is unclear if the president was aware of this technical change.

Between the spring of 1964 and October 1967, MACSOG lost 240 more agents inside North Viet Nam and scores of agents in adjacent Laos and Cambodia.[10] Once again, it included the entire long range agent team force sent into North Viet Nam. There is no hard evidence that anyone within MACSOG was seriously suggesting that the entire operation be cancelled. In fact, when the South Vietnamese appealed to MACSOG to end the farce, MACSOG pressured the South Vietnamese to continue.

The Joint Chiefs of Staff documents also confirm that in the spring of 1966, MACSOG embarked on a five-year program to quietly declare all the agents essentially dead, paying the families death benefits, and erasing the secret army from the rolls. In 1973, U.S. officials in South Viet Nam reporting to the Defense Intelligence Agency learned that hundreds of agents were still alive in North Viet Nam, suddenly terminated the interrogation of the sources who brought this information to South Viet Nam.

Almost 300 agents came out of prison alive in the 1980s and their former commanders, both Vietnamese and American, largely pretended they did not exist. If that is how we treated our allies, it should come as no surprise that we did not do as well as hoped against our enemies. Robert McNamara recounts none of these facts in his memoir.

McNamara recounts a wailing and gnashing of teeth in 1964 at the time of the Gulf of Tonkin incident, officials saying that everyone had made this great miscalculation in 1964. I ask you stop and think about this for a minute, considering facts that were very, very well known at the time, most of it information someone could learn from reading the newspaper.

North Viet Nam had been telling its people for years that the United States was waging a war in South Viet Nam and had turned the South into a colony. To urge public acceptance of their propaganda, North Vietnamese security officials referred to the captured agents as "American commandos," their presence in the North being portrayed as evidence that the U.S. military was really involved in and fomenting the war. Some people up North believed them and some did not. In fact, Ha Noi was aware that it was initially a CIA operation and it was not military as reported to its own people. What Ha Noi lacked in its northern homeland was credible evidence of a directed U.S. military involvement.

One problem with what North Viet Nam was claiming was that there were relatively few U.S. military there in the very early 1960s, no ground combat troops to speak of, and a lot of people knew that what Hanoi was saying was not all that true. But, North Viet Nam had promised the Vietnamese that Communism was the vision and that vision was getting more and more distant. After all, North Viet Nam historically had insufficient food to feed its own people, relying on the southern rice bowl to feed the north, and no real military hardware with which to prosecute a war in South Viet Nam.

Thus, in the world of 1964, the CIA and Pentagon knew they were losing all their agents but did not discover why this was happening. As the Pentagon prepared to take over the covert operation from the CIA, an operation that by all appearances was winding down, not up, Robert McNamara began to tell the world that the United States would reduce our forces in Viet Nam, not increase them. The agent teams were reporting from North Viet Nam that they had recruited more agents and were conducting the sabotage asked of them, even asking for more reinforcements and supplies. Other Communist countries had been supportive of the North Vietnamese, stopping far short of giving their fraternal Communist brethren in Ha Noi a blank check for the military hardware it required to prosecute a war in South Viet Nam.

Thus, when American destroyers began conducting intelligence missions in the Gulf of Tonkin and the North Vietnamese knew the U.S. would attack the North if U.S. forces were attacked, it does not take a rocket scientist to realize that we were heading toward a situation where it would not take much to provoke us to attack. And, once we did attack, the North Vietnamese could sit back and tell the world "See, we told you so." And that is, of course, precisely what happened. It is with this historic background that McNamara's claimed wailing and gnashing of teeth seems rather hollow.

I believe most of us are aware that the USS Maddox was attacked by three North Vietnamese motor torpedo boats on 2 August 1964. On 4 August the Maddox had been joined by the USS Turner Joy and reported that it was again under attack. There was some doubt that an attack had actually taken place and every one seems to have assumed it was the North Vietnamese. Enough senior officials in Washing-

ton and Hawaii thought that an attack had taken place, that McNamara met with selected senators and reassured them that there was a belief that a second attack had occurred. But, for the past 31 years there has been considerable debate about whether there had really been an attack by the Viet Nam People's Navy on 4 August.

Two years later I received what had all the appearances of credible information indicating that the Viet Nam People's Navy did not attack on 4 August, suggesting that the Chinese People's Navy could have conducted the attack, supporting the Viet Nam People's Navy as they had done in July 1963 during a day-long mission against maritime operations boat crew Nautilus 7. But, rather than demanding that we learn the truth, the Pacific Command took a rather different approach, something I believe Robert McNamara may have forgotten.

On 5 July 1966 I was part of a two-man U.S. Army team assigned to interrogate 19 North Vietnamese Navy prisoners capture four days earlier in the Gulf of Tonkin. The senior prisoner was Senior Captain Tran Boa, Chief of Staff of the 135th Motor Torpedo Boat Squadron. Bao admitted his unit had attacked on 2 August but stated emphatically that North Viet Nam had not attacked on 4 August. When that word was flashed by the boat that was serving as our interrogation center, the 7th Fleet came back with a message that we were "Not, Repeat Not" to debrief further concerning the gulf of Tonkin incident.

I had already asked Bao to defend his statement that his navy did not, and indeed could not have, attacked the Maddox on 4 August. Bao obliged. I will not go into the details here; you can read about it in "Secret Army, Secret War." I am sure it is just a coincidence that when a congressional inquiry looked into the Gulf of Tonkin incident about a year and a half later, all 19 North Vietnamese Navy POWs were suddenly sent back to North Viet Nam. At the end of 1990 I had a chance to read the final report of the 7th Fleet Exploitation team to which we were assigned in July 1966 and I found that all references to the August 1964 attacks were missing from the team final report.[11]

Lastly we have my third area, false statements to the Congress.

In his memoir released in the spring of 1995, Robert McNamara recounts his testimony on 6 August 1964 before a joint executive session of the Senate Foreign Relations and Armed Services committees, urging support for the administration and what has become known to history as the Gulf of Tonkin Resolution. McNamara writes: "In reply [to Sen. Wayne Morse] I said "Our Navy played absolutely no part in, was not associated with, [and] was not aware of any South Vietnamese actions." As I have explained, the U.S. Navy did not administer 34A operations, and the DESOTO patrols had neither been a "cover" for nor stood by as a "backstop" for 34A vessels. Senator Morse knew these facts, for he had been present on August 3 when Dean [Rusk], [Gen.] Bus [Wheeler] and I briefed senators on 34A and the DESOTO patrols. That portion of my reply was correct."[12]

NcNamara also writes: "Critics. * * *charge that the administration coveted congressional support for the war in Indochina * * * and presented false statements to enlist such support. The charges are unfounded."[13]

It is not I who argues that Robert McNamara lied to the Congress, it is the history of the maritime operations element of MACSOG as contained in the Joint Chiefs of Staff previously top secret study, the oral histories of the CIA officers who directed the covert maritime operations using U.S. Navy SEALs as the trainers, and the oral histories of the Americans and South Vietnamese who rode on those boats. The fact is that Robert McNamara was aware that MACSOG controlled the northern maritime operations with funding for them approved by the U.S. House of Representatives and packaged within the U.S. Navy's annual budget. It logically follows that such false statements could well have played a decisive role in enlisting congressional support for the Gulf of Tonkin Resolution, Robert McNamara's assertion to the contrary notwithstanding.

I want to close with two critical questions for Robert McNamara:

Why were you less than straight forward 31 years ago and why are you still not telling it "like it really was"?

FOOTNOTES

[1]Joint Chiefs of Staff, MACSOG Documentation Study, 10 July 1970. The document released by the Defense Department's Central Documentation Office to the author on 24 December 1992 is located in the author's investigator files maintained in the legislative files portion of the National Archives, Washington, DC.

[2] Robert S. McNamara, In Retrospect, 387.
[3] Sedgwick Tourison, Secret Army, Secret War—Washington's Tragic Spy Operation in North Vietnam, Naval Institute Press, 1995.
[4] Author's interview with South Vietnamese former commando, September 1995, Crofton, Maryland.
[5] Tourison, Secret Army, Secret War, 56–58.
[6] Tourison, Secret Army, Secret War, Appendix 1, 10.
[7] Ibid.
[8] Ibid.
[9] McNamara, in Retrospect, 25/27.
[10] Tourison, Secret Army, Secret War, 326.
[11] United States Pacific Fleet, Seventh Fleet, Final Report of SEVENTH Fleet Exploitation of North Vietnamese PT Boat Personnel (U), 9 August 1966.
[12] McNamara, 137.
[13] Ibid.

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